

REMARKS

The Examiner has asserted a Restriction Requirement under 35 U.S.C. § 121, requiring restriction of the application to one of the two following claim groups:

Group I including claims 1-64 drawn to a magneto-resistive effect memory element (classified in class 365, subclass 158 and 171); and

Group II including claims 65-76 drawn to a method for producing a metal insulating film containing nitride (classified in class 438, subclass 758+).

The Examiner alleges that Groups I and II are distinct inventions and related as apparatus and product made, and that the method for producing can be made by another and materially different apparatus under MPEP § 806.05(g). However, the Examiner also alleges that the inventions of Groups I and II are distinct and unrelated under MPEP §§ 806.04 and 808.01.

Although Applicant disagrees with the Examiner that Groups I and II are two distinct inventions, Applicant hereby elects Group I including claims 1-64 for prosecution in this application. Applicant has elected Group I in order to expedite prosecution of this application, so that claims 65-76 have been cancelled without disclaimer or prejudice. Claims 1-64 (3 independent claim and 64 total claims) remain pending in the application. The foregoing amendment conforms this application to the restriction requirement contained in the Office Action dated July 1, 2003. The foregoing election is made without waiver, estoppel, or prejudice to the filing of one or more related applications directed to the subject matter of the non-elected claims.

The undersigned would welcome a telephone call at the telephone number listed below if such would advance prosecution of this application.

Respectfully submitted,

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